

From the INTERNATIONAL BUREAU

JS

## PCT

NOTIFICATION CONCERNING  
TRANSMITTAL OF COPY OF INTERNATIONAL  
PRELIMINARY REPORT ON PATENTABILITY  
(CHAPTER I OF THE PATENT COOPERATION  
TREATY)  
(PCT Rule 44bis.1(c))

To:

FENSTER, Paul  
FENSTER AND COMPANY INTELLECTUAL PROPERTY  
2002 LTD  
P. O. BOX 10256  
49002 PETACH TIKVA  
ISRAEL

RECEIVED

23 SEP 2007

FILE No. 34503  
G.E. EHRLICH (1995) LTD.

Date of mailing (day/month/year)  
30 August 2007 (30.08.2007)

Applicant's or agent's file reference  
34503

## IMPORTANT NOTICE

International application No.  
PCT/IL2006/000204

International filing date (day/month/year)  
16 February 2006 (16.02.2006)

Priority date (day/month/year)  
17 February 2005 (17.02.2005)

Applicant

METACURE N.V. et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

Simin Baharlou

Facsimile No. +41 22 338 82 70

e-mail: pt09.pct@wipo.int

## PATENT COOPERATION TREATY

## PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 34503	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/IL2006/000204	International filing date ( <i>day/month/year</i> ) 16 February 2006 (16.02.2006)	Priority date ( <i>day/month/year</i> ) 17 February 2005 (17.02.2005)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant METACURE N.V.			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis. 1(a).
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
- In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report   |
| <input type="checkbox"/> Box No. II           | Priority  |
| <input type="checkbox"/> Box No. III          | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV           | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI           | Certain documents cited   |
| <input type="checkbox"/> Box No. VII          | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII         | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70	Date of issuance of this report 21 August 2007 (21.08.2007)
	Authorized officer  Simin Baharlou  e-mail: pt09.pct@wipo.int

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:  
PAUL FENSTER  
FENSTER & COMPANY, INTELLECTUAL PROPERTY LTD.  
P.O. BOX 10256  
PETACH TIKVA, ISRAEL 49002

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing  
(day/month/year) **29 SEP 2006**

Applicant's or agent's file reference

470/05090

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

PCT/IL06/00204

International filing date (day/month/year)

16 February 2006 (16.02.2006)

Priority date (day/month/year)

17 February 2005 (17.02.2005)

International Patent Classification (IPC) or both national classification and IPC

IPC: A61N 1/00( 2006.01)

USPC: 607/2

Applicant

METACURE N.V.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

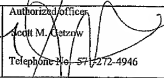
### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

<p>Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201</p>	<p>Date of completion of this opinion 22 August 2006 (22.08.2006)</p>	<p>Authorized officer  Scott M. Getzow Telephone No. 571-272-4946</p>
---	---	---

Form PCT/ISA/237 (cover sheet) (April 2005)

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/IL06/00204

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed  
☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing  
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper  
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.  
☐ filed together with the international application in electronic form.  
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/L06/00204

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 1-44 YES

Claims NONE NO

Inventive step (IS)

Claims NONE YES

Claims 1-44 NO

Industrial applicability (IA)

Claims 1-44 YES

Claims NONE NO

2. Citations and explanations:

Claims 1-44 meet the criteria for novelty and industrial applicability under PCT Article 33(2), 33(4). The prior art does not anticipate the claimed method steps including determining a target non-immediate effect of a therapy.

Claims 1-44 do not meet the criteria for inventive step under PCT Article 33(3). The patent to Wernicke et al teaches stimulating the patient's vagus nerve, or other nerves, to modify blood chemicals such as glucose. To first determine a target non-immediate effect would have been obvious in that the treating physician would want to treat the patient in the most efficacious manner and by so doing the correct amount of stimulation is provided to the patient, without wasting battery power.